

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

DIGITAL MEDIA SOLUTIONS, LLC,
Plaintiff,

v.

SOUTH UNIVERSITY OF OHIO, LLC, *et al.*,

Defendants.

CASE NO. 1:19-cv-145

Judge Dan Aaron Polster

Magistrate Judge Thomas M. Parker

DUNAGAN INTERVENORS' MOTION TO WITHDRAW AS INTERVENORS

Pursuant to Federal Rule of Civil Procedure 7(b), Emmanuel Dunagan, Jessica Muscari, Robert J. Infusino and Stephanie Porreca (the “*Dunagan* Intervenors”) move to withdraw as Intervenors in this case. The *Dunagan* Intervenors are four of six former students of the Illinois Institute of Art who are named class representatives in a proposed class action lawsuit in the United States District Court for the Northern District of Illinois, *Dunagan et al. v. Illinois Institute of Art-Chicago, LLC, et al.*, Case No. 19-cv-809, alleging misrepresentations about their school’s accreditation. On February 13, 2019, the Court granted their motion to intervene under Federal Rule of Civil Procedure 24(a). Dkt. 49.

On May 5, 2023, the Court ordered an in-person settlement conference requiring the participation of, among others, the *Dunagan* Intervenors, all defendants in the *Dunagan* case, and the defendants’ insurers. Dkt. 791. Pursuant to the Court’s directions that the *Dunagan* Intervenors attend the conference in person or dismiss their claims, Intervenors move to

withdraw as Intervenors.¹ In light of developments since the conference was scheduled, the *Dunagan* Intervenors have concluded that participation in the settlement conference is not in their best interests or in the best interests of the class. None of the defendants or insurers have made an offer to resolve the case, much less one that is commensurate with the damages suffered by the class the *Dunagan* Intervenors seek to represent. Accordingly, the *Dunagan* Intervenors will focus their efforts on behalf of the class in the court in which their lawsuit is pending.

Courts allow intervenors to withdraw freely where withdrawal does not interfere with the proceedings. *See, e.g., Morgan v. McDonough*, 726 F.2d 11, 14 (1st Cir. 1984) (“[I]ntervention and withdrawal should be freely granted so long as it does not seriously interfere with the actual hearings.”) (quoting *Dowell v. Bd. of Educ.*, 430 F.2d 865, 868 (10th Cir. 1970)). The *Dunagan* Intervenors’ withdrawal will not affect the proceedings. As noted above, none of them have filed a claim, as no claims process exists for them to do so. They are not participating in any active motions or disputes with the Receiver that require resolution. The Court has indicated on numerous occasions its intention to expeditiously bring the Receivership to a close.

For the foregoing reasons, the *Dunagan* Intervenors respectfully request that the Court enter an order in the form attached dismissing them as intervenors in this proceeding.²

Dated: June 11, 2023

Respectfully Submitted,

/s/ Eleanor M. Hagan

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¹ Intervenors have not filed any claim in this case, as no claims process has been ordered.

² To the extent that the Court believes having counsel for the *Dunagan* Intervenors present at any settlement conference would be beneficial to the Court or the other parties, counsel are able to appear in person and participate as needed.

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CERTIFICATE OF SERVICE

It is hereby certified that a copy of the foregoing was served upon all counsel of record by the Court's electronic filing system this 11th day of June 2023.

/s/ Eleanor M. Hagan

Eleanor M. Hagan

One of the Attorneys for Intervenors